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May 7, 2008

DEPARTMENT OF ENERGY  
OFFICE OF HEARINGS AND APPEALS

*Hearing Officer's Decision*

Name of Case: Personnel Security Hearing

Date of Filing: December 5, 2007

Case Number: TSO-0574

This Decision considers the eligibility of XXXXXXXX XXXXXXXX (hereinafter referred to as "the individual"), to hold an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." As explained below, it is my decision that the individual's access authorization should not be restored.

I. BACKGROUND

The individual has been an employee of a Department of Energy (DOE) contractor, and has held a DOE access authorization continuously from 1995 until it was suspended in connection with the current proceeding. In November 2006 and March 2007, the DOE conducted personnel security interviews (the 2006 PSI and the 2007 PSI) concerning the individual's conduct while he was stationed in a sensitive foreign country in 2005 and 2006.

In October 2007, the Manager for Personnel Security of the DOE area office where the individual is employed issued a Notification Letter to the individual. The Notification Letter indicates a security concern under 10 C.F.R. § 710.8(1) (Criterion L) of the regulations governing eligibility for access to classified material. Criterion L concerns involve information that an individual has engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable, or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation, or duress which may cause him to act contrary to the best interests of national security. With respect to Criterion L, Enclosure 2 of the

Notification Letter sets forth the following concerns pertaining to the individual:

(1) at personnel security interviews (PSIs) conducted in November 2006 and March 2007, the individual admitted that while stationed in a sensitive foreign country, he had an extramarital affair with a female foreign national (the Foreign National). Although the affair began in September 2005 and continued until February 2006, he did not report this contact to the appropriate security officer or to the DOE, as required, until February 2006.

(2) at the March 2007 PSI, he admitted that during a background investigative interview by an Office of Personnel Management (OPM) investigator in February 2006, he did not report this extramarital affair. He intentionally did not reveal this reportable information until he had a second interview with the OPM investigator a week later.

(3) At the 2006 and 2007 PSIs, he admitted that in February 2006, he told the OPM investigator that he had ended the extramarital affair with the Foreign National and had no intention of having further contact with her. However, the individual admitted that he resumed the affair in approximately March 2006 and continued it until he left the sensitive foreign country in June 2006, and that he had further contacts with her through emails and phone calls until November 2006.

(4) At the PSIs, he admitted that he began the extramarital affair in September 2005. He hid the affair from his wife until February 2006 at which time he told her the affair had ended. He hid from his wife the fact that he resumed the affair from approximately March until June 2006.

(5) At the PSIs, he stated that he failed to end the affair in February 2006 because "... I'm stupid, you know, weak male, you know, and I was lonely."

(6) At the November 2006 PSI, he admitted that his hidden extramarital affair made him vulnerable and a possible easy target for blackmail.

(7) At the November 2006 PSI, he admitted that social photographs of him were taken with the Foreign National and her family during the course of this extramarital affair.

See Enclosure 2 to October 28, 2007 Notification Letter.

In his November 9, 2007, response to the Notification letter, the individual admitted that he should have notified DOE security about his relationship with the Foreign National. He stated that he did not initially reveal the affair to an Office of Personnel Management interviewer in February 2006 because he first wanted to inform his wife about the affair, and she was scheduled to arrive that weekend for a visit. He stated that he scheduled a second interview with the OPM investigator a week later and revealed the information at that time. He stated that at the time of his interview with OPM in February 2006, he had ended the affair, and had no intention of resuming it. However, after his wife returned to America, he resumed the affair until he left the country in June 2006. He stated that his wife now is aware that he resumed the affair, and also that he had email contacts with the Foreign National for a short period after he returned to the United States, and one telephone contact. He stated that he deeply regretted "that the whole affair ever happened." November 9, 2007 response.

The individual also requested a hearing to respond to the security concerns raised in the Notification Letter. The hearing was convened in March 2008 (hereinafter the "hearing"), and the testimony focused on the individual's efforts to demonstrate that he has recognized that his behavior was inappropriate, that he is not subject to coercion based on his past behavior, and that he is unlikely to engage in such behavior in the future.

## II. *HEARING TESTIMONY AND DOCUMENTARY EVIDENCE*

Six persons testified at the hearing. The DOE counsel presented the testimony of the personnel security specialist who interviewed the individual at his 2006 and 2007 PSIs. He also presented the testimony of a DOE counterintelligence officer (the CI Officer). The individual, who was represented by counsel, testified and presented the testimony of his wife, a DOE contractor manager who recruited the individual and has worked with him for several years, and the DOE contractor manager to whom the individual reported while he was on assignment in the sensitive foreign country.

*A. The DOE Security Specialist*

The DOE security specialist stated that a person who holds a security clearance needs to report to the DOE any activity that could make him vulnerable to exploitation and blackmail. She testified that the individual's conscious decision to engage in a relationship with a foreign national in a DOE sensitive country constituted such activity and should have been reported to the DOE. TR at 19. She stated that DOE Counterintelligence rules required the individual to list foreign contacts such as this while he was working outside of the United States. Specifically, she referred to DOE Order 1500.3, which authorizes foreign travel, and to DOE Orders 475.1 and 551.1(b), which identify information that must be reported to DOE Counterintelligence. TR at 21. She testified that the DOE believes that the individual had adequate knowledge of these reporting requirements, and that by not reporting this affair for six months, and then by consciously deciding to delay reporting the affair to OPM until after he first told his wife, the individual made himself vulnerable to blackmail or exploitation. TR at 22-23.

The DOE security specialist stated that the DOE also was concerned by the individual's admission that following his February OPM interview, he allowed his emotions to overcome his common sense and resumed the affair without reporting it. TR at 24-25. She stated that the individual's conscious decision to engage in this activity and withhold the information from the DOE and his wife indicated that he was not exercising good judgment at that time. TR at 25.

The DOE security specialist stated that when the individual returned home and did not reveal to his wife that he resumed a sexual relationship with the Foreign National, he again was staying vulnerable to exploitation. She testified that at the March 2007 PSI, the individual told her that he told his wife that he continued a friendly relationship with the Foreign National after February 2006, but withheld from her the information pertaining to the resumed sexual relationship. At the time of the March 2007 PSI, the individual also stated that his wife was unaware that he had been photographed with the Foreign National, and that he had continued to exchange emails with her, and to speak to her by telephone in August 2006. According to the DOE security specialist, the individual's decision to hide his sexual relationship and to continue contacts with the Foreign National constituted a pattern of exercising poor judgment. TR at 25-29.

While the DOE security specialist believes that the individual will follow reporting requirements in the future, she testified that the past instances of poor judgement by the individual are an ongoing concern to DOE security. TR at 50-53 *citing* DOE Exhibits 3 and 7.

*B. The DOE CI Officer*

The DOE CI Officer testified that he briefs and debriefs hundreds of DOE and National Nuclear Security Agency employees every year who travel to DOE sensitive countries. He stated that at the briefings, he informs employees how they may be recruited to provide information, and that during the debriefing he asks them to report any significant involvement with foreign nationals. TR at 56-58. He stated that at a debriefing, employees should provide the names of any foreign nationals that they work with on a regular basis and any foreign nationals that they developed a close personal relationship with in private life. Tr at 61. He stated that when DOE contract employees return from an assignment in a DOE sensitive foreign country, DOE Order 475.1, Attachment 2 at p. 5, requires them to contact the DOE Office of Counterintelligence and report these contacts. TR at 63-64. The CI Officer testified that the counterintelligence reporting requirements for DOE contractor employees are effective at the time that the employee returns to the United States, and are not in effect while the employee is overseas. TR at 64-65.

The CI Officer stated that he recalled briefing the individual. He could not remember the specifics of what he told the individual, but he believed that he described the security vulnerabilities for employees working in a DOE sensitive country, as well as the criminal activity that they might be exposed to. TR at 59. He stated that he never would have told the individual that he did not have to report contacts with foreign nationals with whom he worked, because there have been instances where foreign co-workers were known or suspected foreign intelligence agents. TR at 60.

In the present case, he stated that the individual was obligated to contact DOE Counterintelligence and report the affair the first time that he returned to the United States, even if that was just for a short vacation. TR at 65. He stated that he has not heard from the individual since his initial briefing, and that there is no record that the individual ever was debriefed following his return from the DOE sensitive country. TR at 66.

C. *The Individual*

The individual testified that he has held a security clearance for many years and is aware of security issues. TR at 127. He stated that he is committed to his marriage, and that his affair with the Foreign National was an isolated event. TR at 124-130.

The individual stated that in about March 2005, prior to leaving the country, he was briefed by the CI Officer regarding counterintelligence issues. TR at 137. He testified that he must have misunderstood their conversation concerning reporting contacts with foreign nationals who worked for the DOE contractor. He stated that he thought that the CI Officer told him that he did not have to report contacts with those employees, and that is what he came away from the briefing believing. TR at 137-138.

The individual testified that he arrived in the DOE sensitive country in May 2005, and that his official assignment there lasted from June 2005 until June 2006. TR at 138-139. He stated that during the time he was on assignment, he made two or three brief, work-related visits back to the United States. TR at 140.

The individual stated that while he was on this assignment, he used office space rented by his employer from another DOE contractor. TR at 142-144. He stated that the Foreign National was a receptionist at this DOE contractor office. TR at 144. He testified that his friendship and subsequent affair with the Foreign National developed gradually, and that he lulled himself into a false sense of believing that the relationship was not a problem or of concern to the DOE. He stated that he now realizes that this belief was "terribly wrong". TR at 146.

The individual testified that in late February or early March of 2006, he was interviewed by an OPM investigator for the reinvestigation of his eligibility for a security clearance. TR at 148. He stated that during the interview, he realized that he needed to report the affair with the Foreign National, but he also anticipated that he would be asked if his wife knew about the affair. He decided to first tell his wife, who was due to arrive that weekend for a visit, and then report the affair to the OPM investigator. He therefore withheld the information from the OPM investigator during the interview, and contacted her the following week to report the affair. TR at 147. He stated that when he reported the affair in February 2006, the OPM investigator told him to cease contact with the Foreign National and to report the affair to the U.S. embassy's State Department security officer, which he

did. TR at 148. The individual testified that he ended the affair for a period of about one and a half months, but then resumed it. TR at 150.

The individual testified that after he resumed the affair, he began listing the Foreign National as a contact in the monthly reports that he submitted to the DOE concerning his travel within the DOE sensitive country, although he did not reveal the sexual nature of the contact. TR at 172-3. He stated that, in hindsight, he should have informed the OPM investigator when he resumed his affair with the Foreign National, but that he was lulled by his perception that U.S. security personnel did not regard such an affair as something important. TR at 174. He stated that when he returned to the United States in June 2006, he reported to the OPM that he had resumed the affair and that it had now ended. TR at 174-175. 1/

The individual testified that after the November 2006 PSI, he and his wife discussed his resumption of a relationship with the Foreign National beginning in about March 2006 and his subsequent communications with her after his return to the United States, because he wanted to make sure that his wife understood why the DOE was concerned. TR at 182-186.

The individual stated that his last exchange of emails with the Foreign National took place in early October of 2006. He testified that the day after hearing the concerns raised by the DOE Security Specialist at the November 1, 2006 PSI, he emailed the Foreign National and informed her that he could have no further contact with her. TR at 152.

The individual testified that it was his impression that the OPM investigator and the embassy security officer did not consider his reported affair to be a serious security concern. TR at 154-155. However, he stated that his November 2007 PSI with the DOE Security Specialist was "like a two by four to the head" in making him realize that he had failed to do what was required regarding his reporting of the affair. He testified that, at the interview, he committed himself to following "all the rules, everything." TR

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1/ At the hearing, the individual testified that an OPM report of his June 14, 2006, interview did not accurately reflect what he said at that interview. He stated that he is certain that he told the OPM investigator that he resumed the affair after ending it in February 2006, while the report states only that he ended the affair in February 2006. TR at 176-177, DOE Exhibit 16, p. 19.

at 155. He stated that, at his March 2007 PSI, he reaffirmed to the DOE Security Specialist that he had no further contact with the Foreign National, and that he was now knowledgeable and compliant with reporting requirements concerning foreign contacts. He stated that he has reviewed the requirements and completed the periodic security training offered by his employer. TR at 155-156. He stated that, at the present time, he does not feel that he is subject to coercion or blackmail concerning this matter, because the DOE and his wife are aware of his affair with the Foreign National. TR at 156-157. He testified that he is very remorseful about his past actions in this area. TR at 157.

*D. The Individual's Wife*

The individual's wife testified that she has been married to the individual for more than thirty years. TR at 80. She stated that during the period that the individual was in the DOE sensitive country in 2005 and 2006, he visited home about three times, and that she traveled there to be with him periodically. TR at 85-86.

She stated that when she visited her husband in the DOE sensitive country in February 2006, he disclosed the affair to her. She stated that she was very hurt and shocked by the revelation, but felt that she and her husband could work through it. TR at 86-87. She testified that she thought that he told her that he had ended the affair at that time. TR at 91. She stated that within a few months of his return to the United States, the individual confessed to her that he had resumed the affair from March until June 2006. She stated that he also told her about photographs of himself with the Foreign National, and about a phone call and email correspondence between them after his return to the United States. TR at 92-95. She stated that she is not aware that the individual has had any contacts with the Foreign National since the fall of 2006. TR at 99. She stated that she continues to trust the individual to be committed to their relationship and their marriage, and she believes that the current condition of their marriage is very healthy. TR at 96-97.

*E. The Contractor Manager Who Recruited the Individual*

The contractor manager who recruited the individual testified that he hired the individual in 1995 based on his excellent reputation for energy-related work in the military. TR at 70-73. He stated that he interacted with the individual on a daily basis from 1995 through 1999, and since then he interacts with the individual about twice a week, with the exception of the individual's two-year



assignment overseas. TR at 73. He stated that the individual is a superb performer in very difficult circumstances, and has corrected some major problems for the DOE. Id. He stated that he has the highest respect for the individual's honesty and patriotism. He stated that he is aware of the DOE security concern raised by the individual's affair with the Foreign National, but that the individual self-reported this contact, and he is convinced that the individual will not engage in such conduct in the future. TR at 75-77.

*F. The Individual's Contractor Manager During his Overseas Assignment*

The individual's contractor manager during his foreign assignment testified that he supervised the individual beginning in June or July 2004, and during continued to be his reporting manager during his 2005-2006 assignment in the DOE sensitive country. TR at 104-105. He testified that the individual kept him very well informed of his activities during this period. TR at 108. He stated that the individual was given an award for recognition of his performance on this assignment. TR at 108-110. He stated that he does not anticipate that the individual will need to make future trips overseas. TR at 110. He testified that there have been no problems with the individual's honesty or reliability in any aspect of his work for the DOE contractor. TR at 111.

The individual's contractor manager testified that he was aware that the DOE had concerns with a relationship that the individual had with a foreign national during his assignment in the DOE sensitive country. He stated that it is his experience as a security clearance holder that when he returns from overseas trips, he is always debriefed and asked to report what went on and whether there was anything beyond normal and routine interactions. TR at 114. He stated that he believed that he would be obligated to report any close relationship that developed between himself and a foreign national. TR at 115.

*III. APPLICABLE STANDARDS*

A DOE administrative review proceeding under this Part is not a criminal case, in which the burden is on the government to prove the defendant guilty beyond a reasonable doubt. In this type of case, we apply a different standard, which is designed to protect national security interests. A hearing is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6).

The burden is on the individual to come forward at the hearing with evidence to convince the DOE that granting or restoring his access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.27(d).

This standard implies that there is a presumption against granting or restoring of a security clearance. See *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the interests of national security test" for the granting of security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance). Consequently, it is necessary and appropriate to place the burden of persuasion on the individual in cases involving national security issues. *Personnel Security Hearing (Case No. VSO-0002)*, 24 DOE ¶ 82,752 at 85,511 (1995).

Once a security concern has been found to exist, the individual has the burden of going forward with evidence to rebut, refute, explain, extenuate or mitigate the allegations. *Personnel Security Hearing (Case No. VSO-0005)*, 24 DOE ¶ 82,753 (1995), *aff'd*, 25 DOE ¶ 83,013 (1995). See also 10 C.F.R. § 710.7(c).

#### IV. ANALYSIS

The Criterion L security concerns in this case relate to whether the individual violated security rules and regulations by failing to report in a timely manner his extramarital sexual relationship with the Foreign National, a citizen of the DOE sensitive foreign country where the individual was working. As discussed below, I find that the individual committed serious and ongoing violations of these security rules that constituted a pattern of unreliable conduct.

##### A. *The Individual's Failure to Report the Affair to DOE Counterintelligence*

As an initial matter, the individual's decision in September 2005 to enter into an extra-marital sexual relationship with the Foreign National while working in a DOE sensitive foreign country clearly constituted unusual conduct that could have subjected him to blackmail and coercion. The fact that the individual failed to report this conduct, as he was instructed by DOE security,

increased his vulnerability and raises concerns about his honesty and reliability.

I do not accept as reasonable or exculpatory the individual's assertion that he "lulled himself" into thinking that he did not have to report the affair with the Foreign National because she was employed by a U.S. government contractor. Clearly, the individual was obligated to report his ongoing sexual relationship formed in a DOE sensitive country with a citizen of that country. The individual admits that he began the affair in September 2005, and did not reveal it to U.S. Government security officials until late February or early March 2006. At the hearing, the CI Officer who briefed the individual prior to his foreign assignment testified that he informed the individual that DOE security regulations required the individual to contact DOE security and report significant foreign contacts whenever he visited the United States. The individual testified that he made two or three visits to the United States in 2005 and 2006. The individual has not established that all of these visits took place outside of the period from September 2005 through February 2006 when he failed to report his affair. He therefore has not established that he was in compliance with DOE reporting requirements during this period.

*B. The Individual's Initial Failure to Disclose the Affair to the OPM Investigator and his Decision to Resume the Affair Surreptitiously*

Additional Criterion L concerns are raised by the individual's decision, in late February 2006, to withhold information concerning his affair with the Foreign National from an OPM security investigator. The individual later revealed the information after confiding the affair to his wife. The individual's conscious decision to delay revealing this sensitive information violated his commitment to be honest and reliable in his dealings with U.S. security personnel.

Further, despite assuring U.S. security officials and his wife that his sexual relationship with the Foreign National had ended in February 2006, the individual resumed the affair from April until June 2006 without informing his wife or U.S. security officials. 2/

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2/ The individual testified at the hearing that although he did not reveal that he had resumed a sexual relationship with the Foreign National, he did begin to list her as a contact on his

(continued...)

His decision to surreptitiously resume this relationship renewed his vulnerability to blackmail and coercion for an extended period of time. I find that these actions by the individual also raise Criterion L concerns about his conduct, judgment, and honesty. In this behavior, there is an element of willing disregard of security concerns.

*C. The Individual's Failure to Report the Affair When He Returned to the United States*

The individual testified that after he returned to the United States, he revealed to an OPM investigator in June 2006 that he had resumed his affair with the Foreign National. However, the record of that interview does not confirm the individual's account. See DOE Exhibit 16, at p. 19. Nor am I convinced by the individual's testimony that he contacted DOE Counterintelligence to schedule a debriefing and was told that it was not necessary. This assertion was not corroborated by the DOE CI Officer or any of the individual's witnesses. In fact, both the DOE CI Officer and the Individual's overseas manager testified that debriefings are routine for all DOE contractor employees who return from travel to DOE sensitive countries. Accordingly, I find that the individual violated DOE security requirements in June 2006, when he failed to report to DOE Counterintelligence for a debriefing and provide them with updated information concerning the resumption of his relationship with the Foreign National.

*D. The Individual's Decision to Continue Contact with the Foreign National after his Return to the United States*

The individual admits that he remained in email contact with the Foreign National from June through October 2006, and that he telephoned her in August 2006 to wish her a happy birthday. Moreover, his wife was not aware of these contacts, thereby further extending his vulnerability to blackmail and coercion. The individual did not report these ongoing contacts to the DOE until his November 2006 PSI.

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2/(...continued)

monthly reports to the DOE. I conclude that this disclosure of the Individual as an "additional contact" does not mitigate his failure to reveal to U.S. security officials that he had resumed the affair.

Based on the above analysis, I conclude that the individual repeatedly engaged in unusual conduct and violated DOE security rules for reporting his contacts with the Foreign National from September 2005 until his November 2006 PSI. I agree with the DOE security specialist that the individual exhibited a pattern of poor judgment during this extended period of time that raises an ongoing concern for DOE security regarding the individual's judgment, reliability and trustworthiness.

*E. The Individual's Efforts at Mitigation Since November 2006*

The individual contends that, since the November 2006 PSI, he has taken several actions to mitigate the ongoing security concerns arising from his affair with the Foreign National. He asserts that immediately after the November 2006 PSI, he broke off contact with the Foreign National and informed his wife about the nature and duration of that relationship. He now admits that his conduct with the Foreign National was wrong, as was his failure to report his contact with her to DOE security in a timely manner, and he states that he is remorseful about this behavior. He further asserts that his affair with the Foreign National was his only extramarital relationship, and that he will not engage in such conduct in the future. Finally, he states that he has reviewed security reporting requirements for foreign contacts and intends to comply with them in every respect. 3/

I find that because the individual has ended his relationship with the Foreign National, and has revealed his affair both to his wife and to DOE security, there now is little concern that his past conduct will make him vulnerable to blackmail and coercion. I also accept the individual's assertion that he is genuinely remorseful for his past actions, and that since November 2006, he has made an effort to comply with all DOE security requirements.

However, owing to the recency and duration of his unusual conduct, I do not believe that it would be appropriate to restore his security clearance at this time. From September 2005 through

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3/ The individual also asserted that he will not accept any foreign assignments unless his wife can accompany him, and presented witness testimony supporting this assertion. However, the individual's future intentions regarding foreign assignments are not relevant to my determination of whether he has demonstrated reformation from his recent pattern of unusual conduct and unreliability.

October 2006, the individual engaged in an extramarital affair and subsequent contacts with the Foreign National and, during that period, he failed to adequately report his contact with her to U.S. security personnel. Specifically, his reporting of this matter to the OPM investigator in March 2006 was unjustifiably delayed, and then was negated by his resumption of the affair several weeks later. Under these circumstances, I find that the individual engaged in ongoing behavior during this extended period which casts substantial doubt on his reliability, trustworthiness, and good judgment.

In cases involving unusual conduct, unreliability, or dishonesty, Hearing Officers have stated that the establishment by the individual of a subsequent pattern of responsible behavior is of vital importance to mitigating security concerns. See *Personnel Security Hearing*, (Case No. TSO-0485), 29 DOE ¶ 83,058 (2007)(pattern of responsible behavior necessary to mitigate past financial irresponsibility); *Personnel Security Hearing*, (Case No. TSO-0538), 29 DOE ¶ 83,092 (2007) and cases cited therein at 87,170 (pattern of honest behavior necessary to mitigate past falsifications). In this case, the individual's period of unusual and unreliable conduct lasted from September 2005 until he fully revealed the matter to DOE security and his wife in November 2006, a period of fifteen months. About fifteen months has elapsed between November 2006 and the date of the hearing. However, given the impulsive nature of the individual's conduct in initiating and continuing the affair, and his deliberate and deceitful conduct in failing to report this relationship to U.S. security personnel, I cannot find that the individual is rehabilitated from this pattern of impulsive, deceitful conduct by only fifteen months of responsible, honest conduct. I conclude that more time needs to elapse before the DOE can be assured that the individual's past pattern of behavior has been mitigated. See *Personnel Security Hearing*, (Case No. TSO-0077), 29 DOE ¶ 82,753 at 85,522 (2004)(longstanding pattern of poor judgment and unusual conduct that included inappropriate behavior abroad and a failure to report foreign contacts not mitigated by two years of good behavior).

## V. CONCLUSION

For the reasons set forth above, I find that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criterion L. After considering all the relevant information, favorable or unfavorable, in a comprehensive and common-sense manner, including weighing the testimony and other evidence presented at the hearing, I find that

the individual has not mitigated the DOE's Criterion L security concerns. Accordingly, I cannot find at this time that restoring the individual's access authorization would not endanger the common defense and would be clearly consistent with the national interest. It therefore is my conclusion that the individual's access authorization should not be restored. The parties may seek review of this Decision by an Appeal Panel under the regulation set forth at 10 C.F.R. § 710.28.

Kent S. Woods  
Hearing Officer  
Office of Hearings and Appeals

Date: May 7, 2008